

EXHIBIT C

2011.01.13 Trial Transcript Day 7 1/13/2011 3:01:00 PM

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1 under the tab that is the December 23, 2009, response to
2 interrogatory 24. That's appendix A. It's a SKU list.

3 THE COURT: All right.

4 MR. ROBERTSON: And appendix B, you'll see, is
5 license revenues. I'm assuming that the codes here, for
6 example, IC, PO, RQ stand for, for example, inventory control,
7 requisitions --

8 THE COURT: Right, but that doesn't list the
9 customer.

10 MR. ROBERTSON: Not to my mind, Your Honor. Then
11 there's a tab C which, again, has to do with maintenance
12 revenues, and then there's a tab --

13 THE COURT: Wait a minute. Let me look at
14 maintenance revenues. What does it say? How do you read the
15 thing?

16 MR. ROBERTSON: Again, it has these codes. Some I
17 think I can identify. Like LSF we know is Lawson system
18 foundation, RQ, requisitions, but the point --

19 THE COURT: What does it mean? This appendix doesn't
20 tell me anything. You all know about them. You have to
21 understand something, gentlemen, ladies. When you are dealing
22 with something that you are intimately familiar with and that
23 other people are not, you have an obligation to stop for a
24 moment and tell them what it is they are looking at.

25 Now, what does this table -- this appendix C, it's

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1 very small, it's hard to read. I don't have my magnifying
2 glass up here, so what does it say? It says row, labels. What
3 does that mean?

4 MR. ROBERTSON: Your Honor, it was a mystery to us as
5 well.

6 THE COURT: It was a mystery when you got it, but you
7 spent much time and much money figuring it out, so what does it
8 mean?

9 MR. ROBERTSON: To me it means --

10 THE COURT: What did they tell you it meant?

11 MR. ROBERTSON: They didn't tell us what it meant,
12 Your Honor.

13 THE COURT: Did you ask them?

14 MR. ROBERTSON: We asked them to respond to the
15 interrogatory.

16 THE COURT: Did you ever pick up the phone and say --
17 the common thing to do -- what is this table?

18 MR. ROBERTSON: Yes, we did.

19 THE COURT: And what did they tell you?

20 MR. ROBERTSON: They told us it was revenues
21 associated with licensing, maintenance, and servicing for
22 various customers. The point of the motion to compel, Your
23 Honor, was they had a defense, and it's still a defense, that
24 they say, and I think you are going to hear from the witness,
25 that sometimes, not always but sometimes we help with the data

1 migration or we load the catalogs, but oftentimes the customers
2 do it themselves.

3 And we said, well, if you sell them all the system
4 and it's capable of doing that, then it infringes. And they
5 said, no, our customers are going to do this. And that was
6 exactly the issue that came up. This is page 17 of the
7 transcript, Your Honor, where I inform the Court that Lawson is
8 contending that we have to prove infringement on a
9 customer-by-customer basis and that the software they have
10 licensed or maintain is actually, quote, implemented.

11 Go down starting at line 19. If that's going to be
12 the basis of their defense, we think that they should provide
13 us with information as to which software modules on a
14 customer-by-customer basis is actually implemented. For
15 example, the defense is -- and you're going hear it because
16 we've seen slides from Dr. Shamos and we've heard testimony
17 from Ms. Raleigh that sometimes we don't load the catalog data,
18 our customers do it.

19 Now, when I raised that with the Court, I mean, the
20 Court said, well -- and this is a quote from the Court:
21 Frankly, I don't understand how that's a defense to
22 infringement. You say you sold Payne something, but Payne
23 didn't use all of it. If you sold it to me, that's
24 infringement it seems to me. So I really understand the issue,
25 but you all know enough and you can use the dictionary to get

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1 your definitions.

2 Answer: And the fact is, all we got after that was
3 36 customers out of hundreds of customers in which they said,
4 here, here's a few customers that we've done data migration
5 for --

6 THE COURT: What are you doing?

7 MR. McDONALD: I was going to offer something, Your
8 Honor, because I think we may not have a dispute on this issue,
9 and we can maybe cut it short.

10 THE COURT: Let's see if we can speed it up.

11 MR. McDONALD: Since damages are out of the case, I
12 don't think we're going to dispute now -- we don't have to
13 worry about how many customers or whether there was some that
14 we didn't help load the data. I don't think this is an issue.

15 THE COURT: You're not going to offer evidence on
16 that topic.

17 MR. McDONALD: No, it's not a defense that we're
18 asserting.

19 THE COURT: Then it's moot.

20 MR. ROBERTSON: All right, thank you, Your Honor.
21 That's a good resolution.

22 THE COURT: Do you know how that could have been
23 solved, Mr. Robertson? Let me tell you the way that we did it
24 in the days gone by. The issue was on the table -- Mr.
25 McDonald, this is for both of you.